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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/600,361	06/20/2003	Jean-Marie Andrieu	1187-R-02	7112

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IP GROUP OF DLA PIPER RUDNICK GRAY CARY US LLP  
1650 MARKET ST  
SUITE 4900  
PHILADELPHIA, PA 19103

EXAMINER

LE, EMILY M

ART UNIT PAPER NUMBER

1648

DATE MAILED: 03/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/600,361

Applicant(s)

ANDRIEU ET AL.

Examiner

Emily Le

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 21 January 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 12, 14, 15 and 33-40 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 12, 14, 15 and 33-40 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No: \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date: \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 1/21/05 has been entered.

### ***Status of Claims***

2. Claims 1-11, 13 and 16-32 are cancelled. Claims 38-40 are added. Claims 12, 14-15 and 33-40 are pending and under examination.

### ***Claim Objections***

3. Claims 12 and 15 objected to because of the following informalities: The cited claims are not in accordance with MPEP § 608.01(n) (claim arrangement), which states "a series of singular dependent claims is permissible in which a dependent claim refers to a preceding claim which, in turn, refers to another preceding claim." In the instant, the cited claims do not depend from a preceding claim. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 14-15 and 33-35 are rejected under 35 U.S.C. 102(e) as being anticipated by Lisiewicz et al. (U.S. PreGrant Pub No. 20030095988).

The claims are directed to a composition comprising an antigen-presenting cell pulsed with an inactivated non-recombinant human immunodeficiency virus (HIV). The claims limits the antigen-presenting cells to dendritic cell, which is further limited to autologous dendritic cell and monocyte-derived dendritic cell.

Lisiewicz et al. teaches a composition comprising an antigen-presenting cell, pulsed with an inactivated non-recombinant human immunodeficiency virus (HIV). The antigen presenting cells Lisiewicz et al. teaches is a monocyte-derived dendritic cell and is autologous. The inactivated non-recombinant HIV virus Lisiewicz et al. teaches is thermally inactivated. [Paragraphs 0144-0149 and 0168.] The composition Lisiewicz et al. teaches is the same composition claimed. Ergo, Lisiewicz et al. anticipates the claimed invention.

### ***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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7. Claims 36-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lisziewicz et al. in view of Grovit-Ferbas et al.

The claims requires HIV be chemically inactivated, non-thermally inactivated, particularly by 2,2'-dithiopyridine.

Lisziewicz et al. does not teach chemical inactivation of HIV. As noted above, Lisziewicz et al. teaches of only thermal inactivation of HIV.

Grovit-Ferbas et al. teaches both thermal and chemical (non-thermal) inactivation of HIV, including the use of 2,2'-dithiopyridine to inactivate the virus. [Second column of page 5802.]

It would have been prima facie obvious for one of ordinary skill in the art at the time the invention was made to substitute one known method of viral inactivation for another with a reasonable expectation of success.

Therefore, one of ordinary of ordinary skill in the art at the time the invention was made would have had a reasonable expectation of producing the claimed invention, absent unexpected results to the contrary.

8. Claims 12 and 39-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lisziewicz et al. in view of Cohen et al. (applied to claim 12); and in view of Grovit-Ferbas et al. in further view of Cohen et al. (as applied to claims 39-40).

The claims require the antigen, inactivated HIV, be autologous.

Neither Lisziewicz et al. nor Grovit-Ferbas et al. teach the use of autologous antigen. Lisziewicz et al. and Grovit-Ferbas et al. simply teach the use of an antigen pulsed with dendritic cells, wherein the antigen in inactivated HIV.

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Cohen et al. teaches the use of autologous antigen pulsed with dendritic cells.

Cohen et al. also suggests the use of HIV as an antigen. [Example 28]

It would have been prima facie obvious for one of ordinary skill in the art at the time the invention was made to combine the teaching of Cohen et al.

One of ordinary skill in the art at the time the invention was made would have been motivated to combine the teaching of Cohen et al. and Lisziewicz et al. with or without Grovit-Ferbas et al. to produce a composition that comprises an autologous antigen pulsed with dendritic cells, wherein the antigen is inactivated HIV for use in HIV treatment.

One of ordinary skill in the art would have had a reasonable expectation of success for doing so because Lisziewicz et al., Cohen et al., and Grovit-Ferbas et al. are analogous to one another, each teaching the use of an antigen pulsed with dendritic cells.

Therefore, one of ordinary of ordinary skill in the art at the time the invention was made would have had a reasonable expectation of producing the claimed invention, absent unexpected results to the contrary.

### ***Conclusion***

9. No claim is allowed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Emily Le whose telephone number is (571) 272 0903.

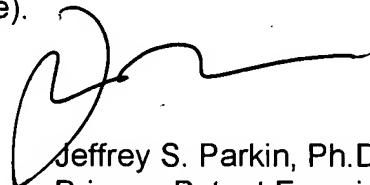
The examiner can normally be reached on Monday - Friday, 8 am - 5:30 pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Housel can be reached on (571) 272-0902. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
E.Le

  
Jeffrey S. Parkin, Ph.D.  
Primary Patent Examiner  
Art Unit 1648